

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KATHLEEN M. MIELNICKI,

Plaintiff,

vs

5:06-CV-1413

MICHAEL J. ASTRUE,

Defendant.

APPEARANCES:

OF COUNSEL:

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TOMASINA DiGRIGOLI, ESQ.

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff filed this action in November 2006, pursuant to 42 U.S.C. §§ 405(g), 1383(c)(3) seeking review of a final decision of the Commissioner of Social Security denying her application for disability insurance benefits and Supplement Security Income. By Report-Recommendation dated June 4, 2009, the Honorable Victor E. Bianchini, United States Magistrate Judge, recommended that defendant's motion for judgment on the pleadings should be denied; plaintiff's cross motion for judgment on the pleadings should be granted in part and denied in part and remanded for further reconsideration.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Bianchini, the Report-Recommendation is accepted and adopted in whole.

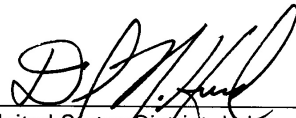
See 28 U.S.C. 636(b)(1). Accordingly, it is

ORDERED that

1. Defendant's motion for judgment on the pleadings is DENIED;
2. Plaintiff's cross-motion for judgment on the pleadings is GRANTED in part and DENIED in part; and
3. This matter is REMANDED to the Commissioner for further consideration consistent with the Report-Recommendation.

IT IS SO ORDERED.

Dated: June 24, 2009
Utica, New York.


United States District Judge